

### **REMARKS**

Claims 1-20 are now pending in the application. Claim 14 is withdrawn. Claims 19 and 20 have been added as new. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

### **INTERVIEW SUMMARY**

Applicant thanks the Examiner for the telephonic interview granted on August 26, 2009. Examiner Gregg Cantelmo and Applicant's representative Jeremy Plenzler participated in the interview. There were no exhibits presented and U.S. Patent Publication No. 2004/0018412 (Orbson) was discussed relative to the §102 rejection of claims 1, 2, 4-8, 11-13 and 15-18. Specifically, claims 1, 2, and 6 were discussed. There was no agreement reached regarding allowance of the claims. However, the Examiner provided further insight into the features of Orbson considered to anticipate the claims and indicated that clarifying a location of the claimed gasket may advance prosecution. The Examiner additionally indicated that amendments after final may be considered since a comprehensive search has already been performed. Applicant believes the amendments discussed below correspond to the clarification of the gasket location discussed with the Examiner and place the claims in condition for allowance.

### **ELECTION/RESTRICTION**

The Office action indicates that "claim 12 is withdrawn as being directed to a non-elected rejection". However, Applicant notes that claim 14 is the subject of the constructive election, not claim 12. Accordingly, claim 14 is withdrawn and claim 12 is currently pending.

### **REJECTION UNDER 35 U.S.C. §§ 102 AND 103**

Claims 1-2, 4-8, 11-13 and 15-18 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Orsbon et al. (U.S. Pat. Pub. No. 2004/0018412). This rejection is respectfully traversed.

Claims 3 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Orsbon et al. (U.S. Pat. Pub. No. 2004/0018412) as applied to claims 1 and 6 above, and further in view of Koch (U.S. Pat. Pub. No. 2003/0013001), DE 10028395 or JP 2001-336640A. This rejection is respectfully traversed.

At the outset, Applicant notes that claims 1, 6 and 11 have been amended to further clarify the location of the claimed gasket. Specifically, the gasket as claimed is located between the reactant flow channels of a separator plate and a corresponding catalyst membrane. As discussed during the interview, the Examiner indicated that any of the elements 62, 63, 64, 65, 66, 67, 68 of Orsbon could be considered the gasket of the previously presented claims. However, in view of the amendments discussed above, the only portion of Orsbon that satisfies the claimed location of the gasket is the structural frame 68. The structural frame 68 does not include the claimed bridge. Therefore, Orsbon cannot be considered as anticipating claims 1, 6 and 11.

Claims 2-5 and 17 depend from claim 1, claims 7-10 and 18 depend from claim 6 and claims 12-16 depend from claim 11 and should be in condition for allowance for the reasons set forth above. Reconsideration and withdrawal of the rejection of claims 1-18 are respectfully requested.

Applicant further notes that claims 2 and 6, as originally presented, recite the gasket surrounding a perimeter of the diffusion media. The Office Action simply concludes that "[t]he gaskets will mate with and seal off around the gas diffusion mesh 60" with nothing more. Applicant respectfully disagrees and submits that none of the "gaskets" in Figures 2-8 (elements 62, 63, 64, 65, 66, 67, 68) surrounds a diffusion media. Therefore, claims 2 and 6 should be in condition for allowance for these reasons as well as those set forth above.

Finally, in addition to the reasons set forth above, Applicant notes that claims 3 and 9 provide additional grounds for allowance. Specifically, the Office Action improperly considers claims 3 and 9 obvious. The Office Action combines Orbson with a conventional gasket disclosed in Koch, DE 10028395 or JP 2001-336640A. This combination is improper as Orbson specifically teaches away from a conventional fuel cell gasket arrangement and there is no support for the combination other than impermissible hindsight.

#### **NEW CLAIMS**

Claims 19 and 20 have been added as new and are supported by the application as originally filed. Claim 19 depends from claim 1 and claim 20 depends from claim 6 and should be in condition for allowance for the reasons set forth above.

## **CONCLUSION**

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding final Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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